IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 26TH MARCH 2007 / 5TH CHAITHRA 1929

Crl.MC.No. 899 of 2007()

CRIME NO.86/03 OF PALLITHOTTAM POLICE STATION, KOLLAM

PETITIONERS:

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1. BAIJU,S/O.JOSEPH,HOUSE NO.1033,VAYALIL PURAYIDOM,KOLAM WEST VILLAGE.

2. CLEETUS,S/O.GEORGE,HOUSE NO.540, JYOTHISH NAGAR,VADICHERRY,KOLLAM WEST VILLAGE.

BY ADV. SRI.R.SATISH KUMAR

RESPONDENT/COMPLAINANT:

STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA,ERNAKULAM,

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 899 of 2007

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Dated this the 26th day of March, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 308 r/w. 149 I.P.C. They have not entered appearance. The learned Magistrate issued non-bailable warrant to procure their presence. They are willing to surrender before the learned Magistrate. But they apprehend that their applications for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to the learned Magistrate to release the petitioners on bail on the date of surrender itself.

2. It is certainly for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the applications for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary.

Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

4. Hand over copy of the order.

(R. BASANT)
Judge

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